

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**DEBRA BEYAH,**

**Plaintiff,**

**vs.**

**WAL-MART STORES EAST, L.P.,**

**Defendant.**

**CIVIL ACTION NO.: 1:06-CV-659 CSC**

***DEFENDANT’S UNOPPOSED MOTION TO CONTINUE TRIAL PERIOD AND ALL  
DEADLINES SET FORTH IN COURT’S UNIFORM SCHEDULING ORDER***

Defendant Wal-Mart Stores East, L.P. (“Defendant” and/or “Wal-Mart”), by and through its undersigned counsel, pursuant to the Court’s Guidelines to Civil Discovery Practice, respectfully requests the entry of an Order continuing the trial and pretrial deadlines in this matter for thirty days. In support of this motion, Defendant states as follows:

1. On October 11, 2006, the Court entered a Uniform Scheduling Order setting this case for jury trial during the one-week trial period beginning Monday, October 1, 2007 at 10:00 a.m. The trial of this case is anticipated to last 3-4 days.

2. The Uniform Scheduling Order also sets various pretrial deadlines including Discovery, Pretrial Conference, and Dispositive Motions.

3. Due to a significant and unforeseen scheduling conflict, Defendant respectfully requests a thirty-day continuance of the trial period and all pretrial dates set forth in the Court’s Uniform Scheduling Order.

4. Specifically, on the afternoon of January 19, 2007, trial counsel for Defendant, Charlotte McClusky, received Notice that she is set for jury trial on February 12,

2007, in the case of Hunter v. Wal-Mart, Case No. 5:04-cv-298, before Judge C. Ashley Royal, in the United States District Court for the Middle District of Georgia (the “Hunter case”).

5. The Hunter case was filed on November of 2003, approximately thirty-two months before the Beyah case. *See* Docket Report attached as Exhibit 1. Moreover, on November 29, 2006, the Hunter case was set for the trial period beginning January 22, 2007. *See* Trial Notice attached as Exhibit 2. Ms. McClusky attended a pretrial conference on December 18, 2006. At that time, the Hunter Court advised that the case would be set for trial during the March trial period. Upon receipt of the Notice Setting Jury Trial on January 19, 2007, Ms. McClusky contacted Judge Royal’s chambers and was informed that Judge Royal’s trial docket in Athens, Georgia, for February 12 had cleared, and the decision was made to specially set the Hunter case.

6. Ms. McClusky anticipates that the Hunter trial may be lengthy (up to 4-5 weeks) and, during this time period she will not be able to actively participate in other matters, including on going discovery in the above-captioned case.

7. As the Hunter case was filed and set for a very lengthy jury trial before the case pending before this Court, counsel for Defendant respectfully requests that the Court grant its request for a continuance.

8. Undersigned counsel conferred with Plaintiff’s counsel, who does not oppose the continuance requested in this motion.

WHEREFORE, Defendant respectfully requests entry of an Order continuing the trial and pretrial deadlines in this case by thirty days.

Respectfully submitted this 31st day of January 2007.

s/ Charlotte K. McClusky  
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***CERTIFICATE OF SERVICE***

I hereby certify that, on January 31, 2007, I electronically filed the foregoing *Defendant's Unopposed Motion To Continue Trial Period And All Deadlines Set Forth In Court's Uniform Scheduling Order* with the Clerk of the Court using CM/ECF system, which will send notification of such filing to the attorneys of record: Ann C. Robertson, Temple D. Trueblood, Wiggins, Childs, Quinn & Pantazis, LLC, The Kress Building, 301 19<sup>th</sup> Street North, Birmingham, Alabama 35203.

s/ Charlotte K. McClusky  
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***(DRAFT) ORDER***

Now pending before the Court is *Defendant's Unopposed Motion To Continue Trial Period And All Deadlines Set Forth In Court's Uniform Scheduling Order*. The plaintiff does not object to the continuance of the trial period and all deadlines. Accordingly, upon consideration of the motion and for good cause, it is

ORDERED that *Defendant's Unopposed Motion To Continue Trial Period And All Deadlines Set Forth In Court's Uniform Scheduling Order* is hereby GRANTED and the trial and pretrial deadlines in this matter are EXTENDED by thirty days.

Done this \_\_\_ day of February, 2007.

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CHARLES S. COODY  
CHIEF UNITED STATES MAGISTRATE JUDGE